

**BEFORE THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 2017-292-WS – ORDER NO. 2018-__

OCTOBER __, 2018

IN RE: Application of Carolina Water Service, Inc. for Approval of an Increase in Its Rates for Water and Sewer Services) OFFICE OF REGULATORY STAFF'S PROPOSED ORDER ON REHEARING
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I. INTRODUCTION

By Commission Order No. 2018-494 (July 11, 2018), the Public Service Commission of South Carolina (“Commission”) granted rehearing in the above-referenced docket on four issues raised by the South Carolina Office of Regulatory Staff (“ORS”). As the rehearing granted by the Commission is limited to four specific issues, this Order is likewise limited to addressing only those issues specified by the Commission in Order No. 2018-494.¹

Originally, this matter came before the Commission on the Application (“Application”) of Carolina Water Service, Inc. (“CWS” or “Company”) filed on November 10, 2017, whereby CWS sought approval of an increase in rates and charges for the provision of water and sewer service and the modification of certain terms and conditions related to the provision of such service. The Application, filed pursuant to S.C. Code Ann. § 58-5-240 (2015) and S.C. Code Ann. Regs. 103-512.4.A. and 103-712.4.A (2012), employed a test year ending August 31, 2017, and sought a

¹ The four issues on which the Commission granted rehearing, and which are addressed in this order are sludge hauling expenses, litigation costs, Friarsgate EQ basin liner project, and rate design.

water revenue increase of \$2,272,914 and a sewer revenue increase of \$2,238,500 or increased revenues for combined operations of \$4,511,414. The proposed increase utilized a return on equity (“ROE”) of 10.5% based on the rate of return methodology and a historical test year beginning September 1, 2016 and ending August 31, 2017.

By its application, CWS sought to establish a Utility System Improvement Rate (“USIR”) to permit the Company to recover capital investments outside of a rate case. CWS requested modification to its sewer service tariff to reduce the frequency by which customers must test their back-flow devices from every year to every two years and to authorize the Company to terminate service, after notice, to a customer who fails to demonstrate that the back-flow device is working properly. CWS requested authorization to increase its Water Meter Installation Charge from \$35 to \$45 per year. CWS also requested approval of a tariff provision limiting the liability of the Company, its agents, and employees for damages arising out of interruption of service, whether caused by acts or omissions, to those remedies provided in the Commission’s rules and regulations.

Prior to filing the Application in this Docket, CWS’s last rate case before this Commission was in Docket No. 2015-199-WS. In that case, the Commission approved a settlement in which CWS received a combined revenue increase of \$3,068,441 based on a rate base of \$50,955,443, a ROE of 9.34%, a return on rate base of 7.99%, and an operating margin of 11.95%.

CWS’s operations in South Carolina are classified by the National Association of Regulatory Utility Commissioners (“NARUC”) as a Class A water and wastewater utility according to water and sewer revenues reported in its Application for the test year ending August 31, 2017. The Commission’s approved service area for CWS is located in parts of sixteen counties.

The Clerk's Office at the Commission instructed CWS to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by CWS's Application and to mail copies of the Notice of Filing to all customers affected by the proposed rates and charges and modifications. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the scheduled proceeding of the manner and time in which to file the appropriate pleadings. CWS filed affidavits demonstrating the Notice of Filing had been duly published and provided to all customers.

Petitions to Intervene were filed on behalf of the Forty Love Point Homeowners' Association ("Forty Love"), York County, and James S. Knowlton. The ORS was a party of record pursuant to S.C. Code § 58-4-10(B)(2015). York County later moved to withdraw from the proceedings without prejudice and that request was granted by Order No. 2018-38-H following CWS's agreement to withdraw the request for the USIR in this docket.

The Commission held public hearings in Lexington, York, and Greenville counties to allow CWS's customers to present their views regarding the Application. On April 3-4, 2018, the Commission, with Chairman Swain E. Whitfield presiding heard the matter of CWS's Application at the Commission's Hearing Room at 101 Executive Center Drive in Columbia, South Carolina.

CWS was represented by Charles L.A. Terreni, Esquire and Scott Elliott, Esquire. Intervenor Forty Love was represented by Laura P. Valtorta, Esquire, and Intervenor Knowlton appeared *pro se*. Jeffrey M. Nelson, Esquire and Florence P. Belser, Esquire represented the ORS.

At the hearing on April 3-4, 2018, CWS, Forty Love, Mr. Knowlton, and ORS presented testimony and exhibits. CWS presented the testimony of Michael R. Cartin, Operations and Regulatory Affairs Manager (direct, rebuttal and supplemental), Robert M. Hunter, Financial

Planning and Analysis Manager (direct and rebuttal), and Bob Gilroy, Vice President of Operations (direct, rebuttal, and testimony responsive to customers who testified at public hearings), and Dylan W. D'Ascendis, Director at ScottMaden, Inc. (direct and rebuttal). Forty Love presented the direct testimony of subdivision residents and customers Barbara King and Jay Dixon. Mr. Knowlton presented his rebuttal testimony. ORS presented the testimony of Matthew Schellinger (direct and revised surrebuttal), Zachary Payne (direct and revised surrebuttal), and Douglas H. Carlisle, Jr., Ph.D. (revised direct and surrebuttal) as a panel.

On May 17, 2018, the Commission issued Order No. 2018-345 approving an ROE of 10.50% and additional operating revenues of \$2,936,437 consisting of an increase in water revenues of \$1,286,127 and an increase in sewer revenues of \$1,650,310. The Commission also approved several changes to the terms and conditions of service, an increase in the Water Meter Installation Charge, and eliminating the base facility charge on customers with residential irrigation meters.

On May 21, 2018, CWS filed a letter with the Commission advising the Commission that CWS and ORS had determined that a correction to the rates ordered by the Commission in Order No. 2018-345 was necessary. The correction was due to the *pro forma* estimated Uncollectible Accounts calculation and resulted in an overall net reduction to revenues of \$8,662. Thereafter, the Commission issued Order No. 2018-345(A) on May 30, 2018, in which the error in the *pro forma* estimated Uncollectible Accounts calculation was corrected.

On June 19, 2018, counsel for ORS filed with the Commission a Petition for Rehearing or Reconsideration ("Petition"). On June 25, 2018, CWS filed a Return to ORS's Petition. The Commission considered ORS's Petition in its weekly Commission meeting and issued Directive

Order No. 2018-494. By Order No. 2018-494, the Commission granted rehearing on four issues raised by ORS² and denied reconsideration or rehearing on the remaining issues.³ The Commission also directed the Commission Staff to set an aggressive schedule for rehearing. By Order No. 2018-89-H dated July 12, 2018, the Hearing Officer set dates for the prefiling of testimony for the rehearing and set the date of the rehearing for September 6, 2018.

On September 6, 2018, the Commission, with Chairman Comer H. “Randy” Randall presiding, heard the rehearing arising from ORS’s Petition at the Commission’s Hearing Room at 101 Executive Center Drive in Columbia, South Carolina.

At the rehearing, CWS was represented by Charles L.A. Terreni, Esquire, Scott Elliott, Esquire, and John M.S. Hoefer, Esquire. Intervenor Forty Love was represented by Laura P. Valtorta, Esquire, and Intervenor Knowlton appeared pro se. Jeffrey M. Nelson, Esquire and Florence P. Belser, Esquire represented the ORS.

At the rehearing, CWS presented the testimony of Michael R. Cartin (rehearing direct and rehearing rebuttal testimony), Robert M. Hunter (rehearing direct and rehearing rebuttal testimony), Kevin Laird (rehearing direct and rehearing rebuttal testimony), Robert H. Gilroy (rehearing rebuttal testimony), and Keith M. Babcock, Esquire (rehearing revised direct testimony). Forty Love presented the testimony of Jay Dixon (rehearing direct testimony). ORS presented the testimony of Bill Stangler (rehearing surrebuttal testimony), Daniel F. Sullivan

² The four issues on which the Commission granted rehearing are sludge hauling expenses, litigation costs, Friarsgate EQ basin liner project, and rate design.

³ The Commission denied rehearing or reconsideration on issues raised relating to return on equity and the impact of the Federal Tax Cuts and Jobs Act.

(rehearing direct and rehearing surrebuttal testimony) and Dawn M. Hipp (rehearing direct and rehearing surrebuttal testimony).

II. REVIEW OF EVIDENCE AND EVIDENTIARY CONCLUSIONS

A. Sludge Hauling Expense

By Order No. 2018-494, the Commission granted ORS's request for rehearing on the sludge hauling expense. In Order No. 2018-345(A), the Commission approved CWS's requested sludge hauling expense and denied ORS's adjustment to normalize the expense. In its Petition, ORS asserted the sludge hauling expenses during the test year were atypical and should be normalized. ORS proposed an adjustment to remove \$96,892 to normalize the expense. CWS argued the sludge hauling expenses were known and measurable during the test year.

CWS's Position: Mr. Cartin testified that this rate case should be based upon test year expenses. Tr. p. 34, ll. 16-17. Witness Cartin opined that the sludge hauling costs cannot be viewed in isolation and suggested that while the sludge hauling had been lowered after the April 3, 2018 hearing date that other expenses had increased. Tr. p. 34, ll. 9 – 16. He then discussed other expense categories which are expected to increase due to factors occurring after the test year and in the future. Tr. p. 34, ll. 12-16; p. 35, ll. 21 – p. 36, l. 6. Upon questioning by the Commissioners and cross examination, Mr. Cartin stated that sludge hauling expenses for the test year and through the audit cut-off date were known and measurable and would continue for the foreseeable future. Tr. p. 67, ll. 19 – 24; p. 90, ll. 6-14.

At the request of the Commission, CWS witness Cartin provided an update to CWS's sludge hauling expenses from February 1, 2018 through June 30, 2018. Tr. p. 28, l. 4 – p. 29. Witness Cartin also updated the amount of sludge hauled for that same period. Tr. p. 30, line 12 –

p. 31. Mr. Cartin acknowledged that the recent update provided in his testimony showed lower sludge hauling cost subsequent to the April 2018 hearing. Tr. p. 34, ll. 12-13. Responding to ORS's testimony, Mr. Cartin offered that the reduction in CWS's recent sludge hauling expenses were due to the Company taking affirmative measures to reduce sludge hauling costs (such as renting a sludge press) and optimizing plant operations. Tr. p. 36, ll. 13 – 21.

ORS's Position: ORS found the test year expenses for sludge hauling expense at the Watergate and Friarsgate Wastewater Treatment Facilities (WWTFs) atypical in comparison to the sludge hauling expenses reported by CWS for 2015 and 2016. Tr. p. 367, ll. 17-22. In reviewing CWS's Application, ORS obtained trial balances for the test year and the previous two years. Tr. p. 345, ll. 9-11; p. 351, ll. 9-10. ORS then compared the test year balances of each account with the balances for the previous two years. Tr. p. 345, ll. 11-13; p. 351, ll. 10-12. ORS set threshold criteria for dollar increases and percentage increases to identify accounts for which ORS would request explanations for the increases. Tr. p. 345, ll. 14-17; p. 351, ll. 12-14. In this case, the threshold criteria to identify accounts for which to request additional information were set at \$20,000 and 10 percent. Tr. p. 345, ll. 17-20; p. 351, l. 14-16. In addition, ORS also selected additional accounts which did not meet the set threshold criteria to request additional information for review. Tr., p. 345, ll. 20-22; p. 351, ll. 16-18.

ORS witness Sullivan testified that sludge hauling expense (Account 6410) increased \$150,555 or 76 percent from 2016 to 2017 and was identified as an account meeting the threshold criteria to request additional information. Tr. p. 345, l. 23 – p. 346, l. 3; p. 351, ll. 18-20. Upon request of ORS, CWS provided an explanation of the increase in sludge hauling expense and responded that the sludge hauling expense had increased partially due to control of the Friarsgate

WWTF sludge inventory at the plant and that sludge hauling was also being addressed through CWS's inflow and infiltration ("I&I") capital project on the Friarsgate collection system. Tr. p. 346, ll. 1-9; p. 351, l. 20 – p. p. 352, l. 2. ORS's analysis identified the Friarsgate and Watergate business units as the units primarily responsible for the increase in sludge hauling expense. Tr. p. 346, ll. 9-13; p. 352, ll. 2-5.

ORS proposed the adjustment to normalize the expense to reflect sludge hauling expenses in a typical year and normalize CWS's operating experience. Tr. p. 347, ll. 12-15; p. 352, ll. 9-11. In calculating the adjustment of (\$96,892), ORS averaged the sludge hauling expense amount for the test year and the two previous years. Tr. p. 347, ll. 8-11; p. 354, ll. 5-7. Based on responses received from CWS, ORS concluded that test year sludge hauling expense was atypical and abnormal due to a South Carolina Department of Health and Environmental Control ("SC DHEC") consent order for the Friarsgate WWTF, work being conducted on the equalization basin at the Friarsgate WWTF involving removal of large amounts of sludge, and a capital project to correct I&I issues at the Friarsgate collection system. Tr. p. 346, ll. 14-25; p. 353, l. 11 – p. 354, l. 7. ORS found these conditions to be nonrecurring and contributors to the increase in sludge hauling expense. Tr. p. 347, ll. 1-4.; p. 353, l. 23 – p. 354, l. 2.

ORS recognized that even without the SC DHEC consent order and the work on the Friarsgate system to correct I&I issues that sludge hauling expense would continue but not at the level of the test year expense. Tr. p. 347, ll. 4-11; p. 354, ll. 2-7. Because sludge hauling expense would continue without these factors attributing to the increase in sludge hauling during the test year (the SC DHEC consent order, removal of sludge due to the EQ basin project, and the work to correct I&I issues), ORS proposed the adjustment to "normalize" test year sludge hauling expense

to reflect ongoing operations. *Id.* In calculating the adjustment, ORS averaged sludge hauling expenses for 2015, 2016, and 2017. Tr. p. 368, ll. 3-10; p. 352, ll. 6-9. In calculating the adjustment in this manner, ORS's "normalizing" adjustment incorporates the test year expenses which were higher than the previous years. *Id.*

In support of this adjustment ORS witness Hipp offered that the test year sludge hauling expenses are abnormally high and do not represent normal operating conditions going forward. Tr. p. 382, ll. 7-9. Ms. Hipp also offered that if the interconnection with the City of Columbia is completed, then the Company's sludge hauling expense will be further reduced. Tr. p. 382, ll. 10 – 16; p. 410, l. 17 – p. 411, l. 3.

Discussion: In establishing the test year for this case, this Commission stated in Order 2018-345(A) as follows:

A fundamental principle of the ratemaking process is the establishment of a historical test year as the basis for calculating a utility's return on rate base. To determine the utility's expenses and revenues, we must select a 'test year' for the measurement of the expenses and revenues. *Heater of Seabrook v. PSC*, 324 S.C. 56, 59 n. 1 (1996). While the Commission considers a utility's proposed rate increase based upon occurrences within the test year, the Commission will also consider adjustments for any known and measurable out-of-test year changes in expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year. When the test year figures are atypical, the Commission should adjust the test year data. See *S. Bell Tel. & Tel. Co. v. Pub. Serv. Com*, 270 S.C. 590, 603 (1978).
(Italics added to case names.)

Order 2018-345(A), p. 6.

ORS has challenged CWS's test year sludge hauling expense as atypical for the test year and not reflective of ongoing sludge hauling expense for the future period. As noted above, this Commission recognizes that a test year should be adjusted when the test year figures are shown to

be atypical. “The object of test year figures is to reflect typical conditions. — Where an unusual situation exists which shows that the test year figures are atypical the [C]ommission should adjust the test year data.” *Parker v. S.C. Pub. Serv. Comm'n*, 280 S.C. 310, 312, 313 S.E.2d 290, 292 (1984). “The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, reserves, and expenses in the near future when the prescribed rates are in effect. ... Where an unusual situation exists resulting in test year figures that are atypical and thus do not indicate future trends, the Commission should adjust the test year data.” *Porter v. S.C. Pub. Serv. Comm'n*, 328 S.C. 222, 228–29, 493 S.E.2d 92, 96 (1997) (internal citations omitted).

ORS reviewed the test year sludge hauling expense because the test year amount increased 76 percent or \$150,555 from 2016 to 2017. From information supplied by CWS, ORS concluded the increase was attributed to control of sludge inventory at the Friarsgate WWTF pursuant to a SC DHEC consent order, work being performed on the equalization basin at Friarsgate WWTF, and work on I&I issues at Friarsgate. ORS further concluded that the work pursuant to the consent order, the work on the equalization basin, and the I&I project were non-recurring events.

In response to ORS’s adjustment to sludge hauling and at this Commission’s request, CWS provided an update to CWS’s sludge hauling expenses from February 1, 2018 through June 30, 2018. Tr. p. 28, l. 4 – p. 31. CWS’s witness Cartin admitted that the expenses after the April 2018 hearing in this case were lower. Tr. p. 22, 8-10. Mr. Cartin stated that a major factor contributing to the decrease in sludge hauling for the updated period provided in this rehearing is the use of sludge press that began after CWS hired an outside contractor to operate the Friarsgate WWTF in late February 2018. Tr. p. 22, ll. 12-23.

We find that ORS's adjustment of (\$96,892) to normalize sludge hauling expense for the test year to be appropriate. On its face, the increase in the expense account of 76 percent or \$150,555 required additional scrutiny from ORS. That review identified several factors which ORS concluded were nonrecurring and which this Commission agrees are nonrecurring. Accordingly, we find an adjustment to normalize test year sludge hauling expense proper and the amount of the adjustment to be reasonable. ORS used an average of the test year and the two preceding years. This calculation of the adjustment provides some effect of the higher expense amount of the test year tempered by the expense amounts from the prior two years to provide a reasonable forecast of future expense.

CWS's position that the sludge hauling expense was known and measurable for the test year and would continue for the foreseeable future provides no assistance with determining whether the expense should be normalized. There is no dispute the test year expense was known and measurable. Likewise, there is no dispute that CWS will continue to experience sludge hauling expense. ORS has raised a tenable issue of the amount of the expense due to the dollar amount increase and percentage increase over the previous year. While ORS identified several non-recurring factors which increased the amount of test year expense, CWS provided no evidence or explanation to refute that the higher sludge hauling expenses in the test year were non-recurring. We find ORS's proposal to normalize sludge hauling expense appropriate to reflect normal operations.

We are not persuaded by CWS's argument that the normalization expense is not appropriate because other expenses would increase in the future. Similarly, we are not convinced by CWS's contention that ORS's normalization adjustment is an issue viewed in isolation and not

in the context of the overall operating perspective as a routine cost of doing business. The adjustment recommended by ORS and adopted in this Order was based on the test year expense and ORS's further inquiry into the amount of the test year expense which was much larger from the two previous years. "The object of test year figures is to reflect typical conditions. — Where an unusual situation exists, which shows that the test year figures are atypical the [C]ommission should adjust the test year data." *Parker v. S.C. Pub. Serv. Comm'n*, 280 S.C. 310, 312, 313 S.E.2d 290, 292 (1984). The Commission "must adjust atypical test-year figures in order to accurately perform calculations that affect the company's overall rate of return and, ultimately, customer rates." *Porter v. S.C. Pub. Serv. Comm'n*, 333 S.C. 12, 23, 507 S.E.2d 328, 334 (1998)

This adjustment is being considered in the context of a full rate case where CWS has proposed *pro forma* adjustments and other adjustments based on known and measurable occurrences. CWS's income and expenses have been examined in the context of this comprehensive rate case. If during the rate case, CWS was aware of verifiable increases in other expense categories, CWS had the opportunity to present those matters in this case. The adjustment does not take into account any expenses or occurrences after the test year. The adjustment is based on an average of the test year expense and annual expense of the two prior years, and, as noted above, the adjustment moderates the higher than normal test year amount with annual expenses of the two previous years. The sludge hauling expense is not eliminated or reduced to zero but is adjusted to reduce the amount of the expense from the abnormal test year expense amount to an amount more reflective of normal operations. CWS receives coverage for sludge hauling expense but at an amount adjusted to reflect normal operation.

B. Litigation Costs

At the original hearing in April 2018, CWS had sought, and been awarded by Order No. 2018-345(A), recovery of \$998,606 in litigation expenses. In its Petition, ORS challenged the allowance of litigation expenses related to several actions in federal court, state court, and the Administrative Law Court (“ALC”). In granting rehearing, the Commission requested that disaggregated litigation expenses should be provided and specified that expenses for each legal action be provided along with a description of each legal action and an outcome or status of each case. Order No. 2018-494. CWS provided disaggregated expenses by case. ORS asserts that inclusion of the litigation costs as an allowable expense forces ratepayer to pay for CWS’s failure to comply with environmental laws and also requires ratepayers to pay for an unsuccessful defense of a civil action. CWS argued in response that the Company had to defend itself against lawsuits, that the litigation expenses are a cost of doing business, and that the expenses are known and measurable.

CWS’s Position: On rehearing, CWS is seeking to recover \$991,509⁴ which when amortized over the requested 66 2/3 years results in an annual expense of \$14,894. Tr. p. 23, ll. 13 – 16; p. 32, 1-11. Rehearing Exhibit 8, Appendix B. Upon request of the Commission in its order granting rehearing, CWS provided a breakdown of litigation expenses by case. Tr. p. 33. Rehearing Exhibit 8, Appendix B. CWS seeks recovery of litigation expenses for the case of *Congaree Riverkeeper, Inc. v. Carolina Water Service, Inc.* (Civil Action Number 3:15-cv-00194-MBS) (“*Riverkeeper*”) in the amount of \$395,196, for the case CWS filed against the United States

⁴ The amount of litigation expenses sought on rehearing is lower than the amount originally sought and awarded by the Commission. Upon inquiry by ORS of certain invoices, CWS admitted that three invoices totaling \$5,617 were improperly included in the calculation of litigation expense and that an additional \$1,480 was also removed as not being associated with the I-20 litigation. Tr. p. 23, ll. 13-22; p. 32, ll. 1-11; p. 43, ll. 1-12.

Environmental Protection Agency (“US EPA”) and the Town of Lexington in the amount of \$146,420, for the ALC case of the SC DHEC Permit denial of \$233,223, for the ALC case related to the I-20 Connection of \$51,039, and for the condemnation case of \$78,482. Tr. p. 33. In addition, CWS seeks recovery of expenses of \$12,320 and Advances of \$74,828. *Id.*

CWS witness Cartin asserted that ORS’s recommendations on the treatment of litigation expenses was inconsistent because ORS recommended that litigation expenses related to the condemnation case and the ALC cases be assigned to a regulatory asset while recommending denial of the litigation expenses associated with the two federal court cases. Tr. p. 42, ll. 17-23.

CWS presented Keith M. Babcock, Esquire to address the reasonableness of the attorneys’ fees for which CWS seeks recovery in this docket. Tr. p. 196, ll. 18-23. Mr. Babcock explained that he met with CWS’s counsel and received an overview of the five different cases that form the basis for the litigation expenses. He reviewed the pleadings, motions, court filings, and the legal bills from the cases. He noted that there were two federal cases – one being the *Riverkeeper* lawsuit and the other being the lawsuit filed by CWS against the US EPA, two ALC cases, and the condemnation case.

Witness Babcock stated that once the *Riverkeeper* lawsuit was brought that CWS had no choice but to fight the suit “as hard as they could.” Tr. p. 205, ll. 1-6. He stated that the idea of bringing the lawsuit against the US EPA to change the 208 plan or force the interconnection was “an excellent one” and “good legal” strategy but he acknowledged that the lawsuit against the US EPA was a long shot. Tr. p. 205, l. 7-18. The two ALC cases involved the SC DHEC permit – one was the case involving the permit denial and the second was a challenge to a SC DHEC order requiring CWS to present plans to construct a connection to the Town of Lexington’s line. Tr. p.

205, l. 19 – p. 206, l. 1. This second ALC case was “a protection appeal” to protect CWS in the event the permit denial was upheld. *Id.* The condemnation case was filed by the Town of Lexington to condemn CWS’s I-20 wastewater system. Tr. p. 223, ll. 6-9. Mr. Babcock characterized the condemnation as a unique situation because the Town of Lexington started the condemnation after being forced by SC DHEC to do so. *Id.*

Mr. Babcock opined that that attorneys’ fees charged as a result of the litigation concerning these five cases were reasonable. Tr. p. 222, ll. 1-3. Mr. Babcock described his review of the invoices and his analysis under the factors listed in Rule 407, SCACR, Rule 1.5. He also referenced the standard used by South Carolina courts in some cases. From his analysis, Mr. Babcock stated his opinion that the fees and costs at issue are “incredibly reasonable.” Tr. p. 219, ll. 5-10; p. 229, ll. 18-20.

ORS’s Position: In this rehearing, ORS requests the Commission to amend its ruling in Order No. 2018-345(A) to deny recovery of the litigation expenses attributed to the two federal court cases and to establish a regulatory asset for litigation expenses related to the Town of Lexington’s condemnation case and the two ALC cases. Tr. p. 366, l. 18 – p. 367, l. 13.

ORS requests the Commission disallow \$155,974 in legal expenses where the description of professional services was redacted. Tr. p. 394, l. 20 – p. 395 l. 6; Rehearing Exhibit 16, Rehearing Exhibit DMH-4; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. ORS identified adjustments necessary to properly disaggregate litigation expenses between the five court cases utilizing CWS’s starting balances. Tr. p. 395, ll. 7–18. Rehearing Exhibit 16, Rehearing Exhibit DMH-5. ORS further identified adjustments necessary to properly allocate advances

between the court cases. Tr. p. 417, l. 14 – p. 418, l. 7. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2.

ORS requests the Commission deny recovery of the litigation expenses associated with the *Riverkeeper* lawsuit, deny recovery of the litigation expenses associated with the suit brought by CWS against the US EPA, and deny recovery of undocumented and unsupported expenses and advances CWS did not assign to legal actions and did not provide documentation to support. Tr. p. 366, l. 18 – p. 367, l. 13; p. 418, l. 8 – 9.

ORS requests the Commission establish regulatory assets in the amount of \$124,603, \$173,283, and \$36,521 for the Town of Lexington's condemnation case and the two ALC cases respectively. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. The remainder of the \$991,509 in litigation expenses results in a balance of \$657,102 associated with the federal court cases and undocumented and unsupported advances CWS did not assign to legal actions and did not provide documentation to support.

ORS objects to the recovery of the litigation expenses related to the federal court cases because these cases stem from CWS failing to provide service in compliance with its DHEC permits and State and federal law. Tr. p. 369, ll. 5 - p. 370, l.15. p. 412, ll. 12-18. CWS was found by the federal court to have violated the Clean Water Act and was fined by that court. *Id.* ORS witness Hipp stated that ORS's position related to these litigation expenses rests on the policy that ratepayers should not bear the burden of legal costs related to CWS's failure to operate its I-20 sewer system in accordance with its NPDES permit. Tr. p. 382, l. 19 – p. 383, l. 2. ORS does not challenge the reasonableness of the fees, the hourly rates, or the hours spent. Tr. p. 473, ll. 10-13. However, ORS does challenge requiring the ratepayer to pay these expenses for litigating the

Riverkeeper and *US EPA* lawsuits because the expenses are not expenses related to providing adequate sewer service to the customers but result from a failure to manage the I-20 system to comply with the NPDES permit requirements. Tr. p. 387, ll. 13 – 15. The federal court order made several findings regarding CWS's violations of its NPDES permit. Tr. p. 413, l. 15 – p. 414, l. 16.

Alternatively, should the Commission not agree with ORS's position to deny the litigation expenses related to the *US EPA* federal court case, ORS requests that the following adjustment be made to the litigation balance associated with the *US EPA* lawsuit. ORS requests the Commission remove \$15,777 in litigation expenses due to redactions on the invoices which limited ORS's ability to review the description of work performed. Tr. p. 418, l. 14 – p. 419, l. 20; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2 and Rehearing Exhibit 16, Rehearing Exhibit DMH-4. The legal invoices contain numerous entries with work descriptions which detail the work performed for different legal cases. *Id.* Billed time was not separated by legal action. *Id.* Where redactions occurred in the work description, ORS could not verify the legal action to which the redaction should be attributed and how the time should be allocated. *Id.* After ORS's proposed adjustment, ORS calculates litigation expenses related to the *US EPA* lawsuit of \$130,643. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2.

Alternatively, should the Commission not agree with ORS's position to deny the litigation expenses related to the *Riverkeeper* federal court case, ORS requests that the following adjustments be made to the litigation balance associated with the *Riverkeeper* lawsuit. ORS requests the Commission remove \$79,178 in litigation expenses due to redactions on the invoices which limited ORS's ability to review the description of work performed. Tr. p. 418, l. 14 – p. 419, l. 20; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2 and Rehearing Exhibit 16,

Rehearing Exhibit DMH-4. The legal invoices contain numerous entries with work descriptions which detail the work performed for different legal cases. *Id.* Billed time was not separated by legal action. *Id.* Where redactions occurred in the work description, ORS could not verify the legal action to which the redaction should be attributed and how the time should be allocated. *Id.* ORS also made an adjustment of \$19,912 to remove expenses related to the Winston and Strawn invoices. Tr. p. 415, l. 9 – p. 416, l. 6; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2 and Rehearing Exhibit 16, Rehearing Exhibit DMH-2. CWS had categorized the Winston & Strawn invoices as work and expenses related to the *Riverkeeper* case, but the invoices indicated the work was for a matter that was not the *Riverkeeper* case. *Id.* CWS also reallocated \$21,049 in mailing, court reporting, and advances paid to Berkeley Economic Consulting, Inc. Tr. p. 418, ll. 3-7; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. ORS proposed to re-allocate \$19,759 to the *Riverkeeper* lawsuit for legal hours incorrectly attributed to the legal action ALC-DHEC Permit Denial. CWS originally included these costs and attorneys' fees in the ALC Permit denial case when these costs were in fact incurred in the *Riverkeeper* case. Tr. p. 395, ll. 7-12. After ORS's proposed adjustments, ORS calculates litigation expenses related to the *Riverkeeper* lawsuit of \$336,915. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2.

ORS presented Bill Stangler, the Congaree Riverkeeper, as a witness. Mr. Stangler stated that the citizen lawsuit his agency brought in federal court *Congaree Riverkeeper, Inc. v. Carolina Water Service, Inc.* (Civil Action Number 3:15-cv-00194-MBS) was brought in an effort to bring CWS's I-20 facility into compliance with their Clean Water Act permit. Tr. p. 265, ll. 7 – 20. The permit required the I-20 plant to connect to a regional wastewater treatment system and cease discharging into the Lower Saluda River. *Id.* Yet years later discharges from the I-20 plant

continued, and there were numerous effluent limitation violations from the I-20 facility. *Id.* Mr. Stangler stated that *Riverkeeper* case sought to address both the connection to a regional treatment system and the numerous effluent limitation violations. *Id.* Mr. Stangler testified that the Congaree Riverkeeper monitors all sort of sites and polluters in the watershed and takes enforcement action when necessary, Tr. p. 265, l. 21 – p. 266, l. 21. He also testified that CWS’s pattern of ongoing effluent violations was one of the issues which brought the CWS I-20 facility to the Congaree Riverkeeper’s attention and was a key factor in deciding to file the lawsuit. *Id.*

Mr. Stangler also discussed the federal court’s ruling in the *Riverkeeper* lawsuit. In March 2017, the federal court issued its order holding that CWS violated the Clean Water Act permit by failing to connect to the regional system for over 15 years and by repeatedly violating multiple effluent limits in its permit. Tr. p. 278, ll. 1-5. The court imposed a \$1.5 million-dollar penalty against CWS for violation of the connection requirement and a \$23,000 fine against CWS for violation of the effluent limits. *Id.* Following motions of the court’s order, the federal court granted reconsideration on the \$1.5 million penalty because the parties had agreed that they would present evidence on an appropriate penalty if CWS was found liable and the parties had not had a chance to present such evidence at the time of the Court’s ruling. Tr. p. 278, ll.6 – p. 279, l. 2. The case is still ongoing with respect to an appropriate penalty of the violation of the requirement to connect. *Id.* The federal court did not grant reconsideration on its ruling that CWS had violated its NPDES permit for failing to connect to the regional facility and for exceeding the effluent limitations. *Id.*

Discussion: CWS seeks recovery of expenses related to cases in litigation in federal court, state court, and the ALC. All of these cases arise from the issues with CWS’s I-20 system. ORS opposes recovery of the litigation expenses related to the federal cases and requests that the

expenses related to the ALC cases and the condemnation case be booked to a regulatory asset for review in a future rate proceeding after those cases are concluded.

This Commission recognizes that these cases must be reviewed carefully because an underlying contention related to all the cases involves numerous violations of CWS's NPDES permit. When litigation involves claims asserting failure of the utility to adhere to state or federal law, we must look carefully at the matter to determine whether expenses associated with defending the action should be included in rates paid by customers.

(a) Federal Court Cases – The federal court cases arose when the Congaree Riverkeeper filed a citizen lawsuit in 2015. Following the filing of the *Riverkeeper* lawsuit, CWS filed an action for a declaratory judgment and injunction against the US EPA and the Town of Lexington.

CWS through witnesses Cartin and Babcock have asserted that CWS must defend itself when litigation is filed. Mr. Gilroy testifying for CWS stated that CWS has sought interconnection with the Town of Lexington on several occasions. Tr. p. 168, l. 3 – p. 171, l. 10. Mr. Gilroy recounted several instances where CWS approached the Town of Lexington about interconnection, but these attempts were not successful. *Id.*

ORS witness Hipp stated ORS's position that ratepayers should not bear the burden of legal costs related to CWS's failure to operate its I-20 sewer system in accordance with its NPDES permit. Tr. p. 412, ll. 12-18. Witness Hipp also stated that these costs should be the responsibility of CWS's shareholders, otherwise no incentive exists for regulated utilities to operate in compliance with federal, state, and local laws. *Id.*

In response to the Order Granting Rehearing, CWS provided expert testimony from Mr. Babcock on the reasonableness of the attorney's fees incurred. Mr. Babcock described his analysis and concluded that the attorney's fees incurred in the litigation were reasonable. ORS witness Hipp stated that ORS was not contesting the reasonableness of the attorney's fees but rather the propriety of requiring the ratepayers to pay these costs incurred by CWS. Tr. p. 473, ll. 10-13.

In considering this issue, the Commission must be mindful that it must balance the interests of the utility with those of the ratepayer. In reviewing the record before us, we find that recovery of the litigation expenses related to the two federal cases should be denied. First, the litigation brought by CWS against the US EPA and the Town of Lexington was dismissed. While CWS's witness Babcock indicated that the filing of that litigation was good legal strategy, he also stated that a successful outcome was a long shot. The case was resolved against CWS, and no benefit to the ratepayer has been demonstrated.

With regard to the *Riverkeeper* litigation, CWS seeks recovery of expenses defending its noncompliance or failure to comply with the obligations contained in its NPDES permit. CWS was not successful in defending this action in federal court. We find that ratepayers should not be responsible for the payment of litigation expenses incurred in defending this action which was decided against CWS. This Commission agrees with the statement of Witness Hipp that allowing recovery of expenses related to defending this action brought about by CWS's own noncompliance with its NPDES permit provides no incentive for regulated utilities to operate in compliance with federal, state, or local laws.

S.C. Code Ann. Regs 103-570(A) requires CWS to "comply with all laws and regulations of State and local agencies pertaining to sewerage service." S.C. Code Ann. Regs. 103-540 (2012)

requires CWS to “operate and maintain in safe, efficient and proper conditions all of its facilities and equipment used in connection with the services it provides to any customer.” If CWS is allowed to recover these litigation expenses from its customers, the Company has no incentive to operate its utility systems in compliance with state and federal laws.

While we have located no South Carolina case addressing this issue, we are aware of the North Carolina case of *State ex. rel. Utilities Comm’n v. Pub. Staff, N. Carolina Utilities Comm’n*, 317 N.C. 26, 343 S.E.2d 898 (1986), and this case provides guidance on this issue of recovery of litigation expenses. In this case, the North Carolina Supreme Court reversed a decision by the North Carolina Utilities Commission allowing inclusion of utility legal fees in approved operating expenses resulting from the utility contesting a penalty that had been assessed for failure to provide adequate service. The North Carolina Supreme Court noted that the legal fees in question were not associated with the utility’s provision of water service but were a result of the utility’s failure to provide adequate water services in the first place. The North Carolina Supreme Court concluded it would be improper to require ratepayers to pay for the utility’s penalty-related legal fees through inclusion in the utility’s regulated expenses. The North Carolina Supreme Court also concluded that the expense could not be considered reasonable or necessary because the utility could have avoided the expense if the utility had carried out its responsibility of providing adequate service. 317 N.C. 26, 41, 343 S.E.2d 898, 907-8.

This Commission finds that the recovery of the litigation expenses related to the two federal court cases should be denied. As a public utility operating under the laws of South Carolina and pursuant to its federally granted NPDES permit, CWS was required to operate its facilities in compliance with federal, state, and local laws. In its orders, the federal court found significant

violations by CWS. While the *Riverkeeper* case is still ongoing as to the penalty to be imposed, the order of the federal court found CWS to be in violation of its permit. We believe it would be improper to impose these expenses upon the ratepayers when the ratepayers were already paying for the Company to provide its services in compliance with its permits and with applicable federal and state laws.

While this result may seem harsh, the litigation expenses incurred here are not expenses incurred to provide service to CWS's customers. These expenses relate to CWS's management and operation of its I-20 WWTF. CWS failed to manage its I-20 WWTF facility to comply with its NDPES permit, and the shareholders of CWS, not the customers, should bear the responsibility for the expenses of litigation related to CWS's management and operation of the I-20 WWTF.

(b) ALC Cases – CWS seeks recovery of litigation expenses related to two cases pending in the ALC. These two cases are held in abeyance pending the court case involving the condemnation of the I-20 sewer system by the Town of Lexington. Tr. p. 385, l. 18 – p. 386, l. 2. CWS shows the litigation expenses related to both cases as totaling \$284,262, with expenses of \$233,223 attributed to the ALC SC DHEC Permit Denial case and expenses of \$51,039 attributed to the ALC I-20 Connection case. Tr. p. 33. However, ORS witness Hipp addressed the reallocation of \$19,759 in attorneys' fees, classified by CWS as expenses related to the ALC SC DHEC Permit Denial case, as attorneys' fees related to the *Riverkeeper* case. Tr.p. 395. ll. 7-12; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. Witness Hipp also addressed reallocation of \$2,985 in attorneys' fees, booked by CWS to the ALC I-20 Connection case, as attorneys' fees were expenses related to the condemnation case. Tr. p. 395, ll. 13–18; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. ORS Witness Hipp proposed adjustments to the claimed

litigation expenses to remove \$40,181 from the ALC DHEC Permit Denial case and to remove \$11,534 from the ALC I-20 Connection case. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. These two adjustments proposed by ORS related to removal of legal fees where redactions of the descriptions limited ORS's review of the work performed. Tr. p. 394, l. 20 – p. 395, l. 6; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2. With these adjustments, the litigation expenses for the ALC SC DHEC Permit Denial case are \$173,283 and for the ALC I-20 Connection case are \$36,521 totaling \$209,804. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2.

Because these cases have not yet concluded, and no final order has been issued, ORS asserts it would be premature to allow recovery of litigation expenses related to these two cases. Tr. p. 391, l. 1- p. 392, l. 2. ORS recommends establishment of a regulatory asset in which to defer the litigation expenses associated with these two ALC cases and for ratemaking treatment to be deferred until a future rate proceeding. *Id.* ORS also recommends that the regulatory asset be limited to litigation expenses for the ALC cases, that the regulatory asset not be allowed to accrue carrying costs, and that the amortization period for the regulatory asset deferral be established during the next rate proceeding after all facts related to the cases are known. *Id.*

Alternatively, should the Commission deny ORS's request to create a regulatory asset deferral for the litigation expenses related to the ALC cases and find it appropriate to begin amortizing these litigation expenses related to the ALC cases, the appropriate balances for recovery are \$173,283 for the DHEC Permit denial case and \$36,521 for the I-20 Connection case for a total of \$209,804. Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2.

The Commission finds ORS's recommendation to establish a regulatory asset in which to defer the litigation expenses associated with these two ALC cases reasonable and appropriate. Given that the cases are not concluded and all facts surrounding the cases are not yet known, it is appropriate to establish a regulatory asset to defer ratemaking treatment of these litigation expenses. The regulatory asset for these litigation expenses shall be limited to litigation expenses for these ALC cases, the regulatory asset shall not accrue carrying costs, and the amortization period for the regulatory asset deferral shall be established during the next rate proceeding after all facts related to the cases are known

(c) Condemnation Case – At the hearing CWS stipulated that it agreed to place the litigation expenses related to the condemnation case in a regulatory deferral account to be carried without carrying costs until the next rate case when the results of that case are known. Tr. p. 245, l. 23 – p. 246, l. 14. This was the position of ORS with regard to the litigation expenses associated with the condemnation case. Tr. p. 383, l. 11 – 16. Therefore, upon the agreement of CWS and ORS, the expenses associated with the condemnation proceeding of \$124,603⁵ are to be placed in a regulatory deferral account without carrying costs. This amount includes an update from ORS's surrebuttal testimony to include \$52,442 in advances paid for consulting services which originally had not been assigned to a specific litigation case. Tr. p. 417, l. 10 – 16.

C. Friarsgate EQ Basin Liner Project

In its Petition, ORS requested reconsideration with CWS recovering expenses associated with the replacement of the Equalization Liner ("EQ Project"). ORS asserted that the work on the

⁵Tr., p. 33; Tr. p. 44, ll. 7-10; Rehearing Exhibit 18, Surrebuttal Rehearing Exhibit DMH-2.

EQ Project was not completed and that recovery of expenses in this case was not appropriate because the liner was not yet “in service” and did not meet the “used and useful” standard of providing service to customers. In Order No. 2018-494, this Commission granted rehearing of this issue and stated that it would consider an update on the status of the EQ Liner replacement including expenditures and the projected final completion date. Order No. 2018-494.

CWS’s Position: CWS witness Cartin addressed the expenses associated with the EQ Project. He explained the remediation work on the EQ Project was required by SC DHEC Consent Order 16-039-W which required CWS “to remove and properly dispose of the solids and grit from the EQ basin and complete repairs to the basin liner” at the Friarsgate WWTF. Tr. p. 25, ll. 5 – 12; see also, Tr. p. 140, ll. 12 – 16. The remediation work began in September 2017 but was not completed until February 2018 because it was more involved than originally anticipated. Tr. p. 25, ll. 13 – 16. CWS witness Laird offered that the expenses of the remediation would have been required even if CWS had not planned to replace the EQ Liner. Tr. p. 141, ll. 1 – 7.

In November 2017, SC DHEC notified CWS that both Richland County and the City of Columbia had treatment capacity for the flow from the Friarsgate WWTF. Tr. p. 26, ll. 1 – 12. This notice triggered a condition in CWS’s NPDES permit for the facility to affect an interconnection with an available regional wastewater provider. *Id.* CWS entered into discussions with both Richland County and the City of Columbia, and in February 2018, CWS chose to proceed with the City of Columbia for an interconnection agreement. *Id.* Thereafter, based on the recommendation from its engineering consultant, CWS decided to incorporate the EQ basin work scope into the interconnection project. Tr. p. 26, l. 13 – p. 27, l. 3. Mr. Cartin then explained that CWS is not seeking recovery of any costs associated with the EQ liner repair project phase in this

case but that CWS will seek to recover the costs of the interconnection project, which now encompasses the EQ basin liner repair, in its next general rate proceeding. Tr. p. 27, ll. 14 – 19. Presently, the EQ basin project is on hold pending Commission approval of CWS's Interconnection Agreement with the City of Columbia filed on August 2, 2018, in Docket No. 2018- 256-S and the Midlands Region Council of Governments' approval of an amendment to the 208 Water Quality Management Plan that would permit the equalization basin to remain in operation after decommissioning of the Friarsgate WWTF. Tr. p. 139, l. 20 – p. 140, l. 5

ORS's Position: The EQ Project began on May 16, 2017 and was identified by CWS as Project #2017093. Tr. p. 396, l. 13 – p. 397, l. 16. CWS requested \$1,081,375 be included in plant-in-service for this Project which was to replace the equalization basin liner at the Friarsgate plant. *Id.* This project was not completed by April 3, 2018 (which was the first day of the hearing on CWS's Application) and was not providing service to CWS's customers. *Id.* ORS therefore adjusted CWS's pro-forma plant-in-service by \$1,081,375 to exclude the EQ Project from this rate case. *Id.* ORS's reasoning for excluding this project was the fact that the plant covered by the EQ Project was not yet "in service" and was not "used and useful." Tr. p. 397, ll. 17 – p. 398, l. 15.

Subsequent to the April hearing, CWS provided ORS with updates on the EQ Project and responded to discovery requests from ORS related to this rehearing. Responses to ORS's discovery requests initially revealed that the EQ Project (originally designated as Project #2017093) had been separated into two phases. Tr. p. 398, l. 19 – p. 399, l. 5. CWS's testimony filed for the rehearing further revealed that the project has been separated into three phases. Tr. p. 373, ll. 4- 13. Phase 1 is for the project expenses related to soil remediation, Phase 2 is for the project expenses related to the line installation and the interconnection with the City of Columbia, and Phase 3 is for the

project expenses related to the Friarsgate collection system infrastructure repairs and replacement.

Id.

After CWS divided the Project into the different phases, witness Hipp recommended \$1,079,132.84 remain as plant-in-service for Phase 1 site remediation work and Phase 3 collection system infrastructure repairs. Tr. p. 373, ll. 4 – 17'; p. 420, l. 21 – p. 421, l. 13. As a result of the changes and reclassifying the project into different phases, ORS recommends an adjustment to remove \$2,242.51. Tr. p. 373, ll. 18 – 23. This adjustment to plant-in-service removes \$2,130.00 for the portion of the vendor invoices related to costs to reinstall grass matting in the proper location after the matting where the grass matting was installed at the wrong location and also removes \$112.51 for late fees paid to vendors that should not be charged to CWS's customers by the Company. Tr. p. 373, ll. 18 – 23; p. 400, l. 14 – 22; p.421, ll. 7 – 8.

Discussion: CWS and ORS are in agreement that \$1,079,133 should remain in plant-in-service. Following the April 2018 hearing, CWS modified the project from one large project to two separate phases (one being the remediation work and the other being the repair of the liner). Following the negotiations with the City of Columbia for interconnection of the Friarsgate plant, the repair phase was modified into two distinct phases with one phase being the project expenses related to the line installation and the interconnection with the City of Columbia and the second phase being the project expenses related to the Friarsgate collection system infrastructure repairs and replacement. This Commission finds it appropriate to keep this agreed upon amount of \$1,079,133 in plant-in-service as costs of the remediation work (Phase 1 site remediation work) and the collection system infrastructure repairs (Phase 3) have been completed and are in service. CWS has now included the EQ liner repair in the phase which includes the cost of the

interconnection project and has expressed its intention to seek recovery of those costs in the next general rate proceeding. ORS's adjustment totaling (\$2,242.51) for extra costs related to re-installing grass matting which was installed at the wrong location (\$2,130.00) and for late fees (\$112.51) is approved. We conclude that ratepayers should not pay for the mistake of the vendor installing the matting in the wrong location or pay for late fees incurred by CWS. Further, we note that CWS did not contest ORS's adjustment.

D. Rate Design

By its Petition, ORS questioned the adoption of the rate schedule set forth in Order No. 2018-345(A). ORS maintained the rates approved in Order No. 2018-345(A) were only presented by CWS in its proposed Order, which was filed after the record in the case was closed and no discussion in the Order explained the manner of the approved rate design. Petition, page 4. In granting rehearing on this issue, the Commission directed the parties to describe the method used to determine rates. Order No. 2018-494.

CWS's Position: CWS's witness Hunter addressed the issue of rate design. Mr. Hunter explained the two Water Service Territories and difference in the Water Supply Customers and the Water Distribution Customers. Tr. p. 107, ll. 11-14. He also described the rate structure for sewer service customers. Tr. p. 108, ll. 21 – p. 109, l. 2. For the water service customers, Mr. Hunter explained the Base Facilities Charge ("BFC") is set according to the size of a customer's meter and stated the BFC is the same for Water Supply Customers and Water Distribution Customers with the same meter size. Tr. p. 107, ll. 14 -16. In addition to the BFC, water service customers pay a Commodity Charge for the water consumed, but the Commodity Charge for Water Supply

Customers is different from the Commodity Charge for Water Distribution Customers Tr. p. 107, l. 16 – p. 108, l. 2. Sewer service customers pay the same rates regardless of whether the customer received sewer treatment and collection service or treatment-only service. *Id.*

For CWS's water service, the rates in the two service territories are different. Tr. p. 108, ll. 3-4. The rates for water service in each service territory were calculated using the financial statements created to establish the cost of service for each service territory with revenue required to earn the approved 10.50% ROE. Tr. 108, ll. 3 – 13. Mr. Hunter stated that he created financial statements for the test year and applied known and measurable adjustments to establish a unique cost of service for the different service territories. Tr. p. 109, ll. 3 – 13. This process allowed him to calculate the current ROE (before the increase) that each service territory was earning. *Id.* He then calculated the incremental revenue required in each service territory to reach the 10.50% ROE approved by the Commission. *Id.* He then used the rate structure approved in the previous rate case and adjusted the current BFC and Commodity Charge by applying a percentage increase to all rates within each respective service territory to arrive at the revenue required to earn the 10.50% ROE. *Id.* Each set of rates was calculated using the financial statements created for each service territory to establish the cost of service along with the revenue requirement to achieve the allowed 10.50% ROE. Tr. p. 109, ll. 14 – 20.

In Rebuttal testimony, Mr. Hunter addressed ORS's concern that the revenue requirement in CWS's proposed order was different from the revenue allocation contained in the Application. Tr. p. 115, ll. 10 – 15. Witness Hunter reiterated that CWS allocated the revenue requirement to each service territory based on the cost of service for that service territory. Tr. p. 116, ll. 1 – 9. To address why the rates requested in the Application differed from those offered by CWS in the

proposed order, Mr. Hunter stated that the rates in the proposed order were based on the revenue requirement calculated on the cost of service for each service territory after adjustments during the audit performed by ORS and using any other known and measurable adjustments which arose between the Application being filed and the proposed order. Tr. p. 116, ll. 15 – 21. One specific example related to an adjustment made by ORS to adjust pro-forma property taxes. ORS identified that CWS had allocated property taxes to Water Service Territory 1 which should have been allocated between Water Service Territory 1 and the unified Sewer Service Territory. Tr. p. 116, l. 21 – p. 117, l. 5. Mr. Hunter also noted that the rates offered by ORS in its proposed order did not account for changes in cost of service to the service territories but were calculated by applying the percentage of total revenue requirement allocated to each service territory from CWS's Application to the adjusted revenue requirement determined by ORS. Tr. p. 117, l. 21 – p. 118, l. 6.

ORS's Position: In explaining ORS's position on this issue of rate design, witness Hipp acknowledged the Commission has the discretion to establish rates to distribute the revenue requirements in an equitable manner among the Company's customers but explained ORS's concern that the revenue allocation in Order No. 2018-345(A) resulting in an unexpected decrease to a portion of water customers in Service Territory 1 was not transparent or may not be fair to the remaining customers in Service Territory 1 and Service Territory 2. Tr. p. 404, ll. 12-22. At the hearing Ms. Hipp explained the reason for the reduction was not apparent and ORS raised the objection to have the issue examined in the event the revenue allocation was misallocated or a classification of customer was disadvantaged. Tr. p. 437, ll. 3 – 14.

In her direct prefiled testimony, Ms. Hipp discussed that CWS in its Application had represented that a rate increase would result for all commercial and residential water customers in Service Territory 1 and Service Territory 2 and the notice of the hearing had reflected these increases. Tr. p. 401, ll. 8 -17. Further witness Hipp explained CWS had presented testimony indicating a rate increase was necessary for all water customers in both service territories. Tr. p. 401, l. 18 – p. 402, l. 7. Ms. Hipp then explained the proposed order submitted by CWS presented an allocation of the revenue requirement for the water customer in Service Territory 1 which differed from the rates requested in the application and noticed to the Customers. Tr. p. 402, l. 12 – p. 403, l. 2. Specifically, the rate schedule contained in CWS’s proposed order deviated from the revenue allocation contained in the Application and CWS’s testimony from the hearing by decreasing the base facilities charge (“BFC”) and commodity charge from the currently approved rates for all water supply customers in Service Territory 1 and by decreasing the BFC from the currently approved rate for all water distribution customers in Service Territory 1. *Id.* CWS did not provide an explanation of the revenue allocation resulting in a reduction on the BFC for all water supply and distribution customers in Service Territory 1 and a reduction in the commodity rates for all water supply customers in Service Territory 1. Tr. p. 403, l. 12 – p. 404, l. 3.

During its review of the rate case, ORS calculated the percentage of the total revenue requirement attributed to sewer, purchased water and water supply customers within Service Territory 1 and Service Territory 2 to verify the accuracy and fairness of the rates contained in CWS’s Application. Tr. p. 405, ll. 1-18. In its proposed order, ORS replicated the revenue allocation based on the rates proposed in the Application and applied as close as practicable the allocation percentage to the proposed revenue requirement to determine the revenue requirement

for each customer class. *Id.* ORS then designed rates which kept as close as practicable the revenue allocation proposed in the Application and verified by ORS. *Id.* Witness Hipp offered that ORS was not recommending rates be increased for customers in Service Territory 1 but requested that should the Commission re-evaluate the approved revenues requirement in the context of the rehearing that the revenue requirement allocation be reviewed to ensure no customer class is disadvantaged. Tr. p. 405, l. 19 – p. 406, l. 3

After reviewing CWS's explanation of the allocation of the revenue requirement contained in the surrebuttal testimony of CWS's witness Hunter, Ms. Hipp acknowledged that ORS more fully understands how the rate schedule was developed. Tr. p. 421, ll. 15 – 20. Further, Ms. Hipp stated that the details and explanation provided through CWS's rebuttal testimony of witness Hunter satisfy ORS's concern with the revenue allocation contained in that Commission Order No. 2018-345(A) and that ORS considers the issue resolved. Tr. 441, ll. 11 - 25.

Discussion: Based upon the evidence presented including ORS's acknowledgement that the explanation and details provided by CWS in the rebuttal testimony of CWS witness Hunter alleviate ORS's concern, the Commission finds that the revenue allocation contained in CWS's proposed order and adopted by the Commission in Order No. 2018-345(A) is appropriate and correct. CWS explained the methodology utilized in its revenue allocation, and the Commission finds that the revenue allocation is based upon the cost of service for each service territory taking into account the adjustments adopted by the Commission in the Order which includes the reallocation of property taxes from Water Service Territory 1 to Water Service Territory 1 and the unified Sewer Service Territory. While CWS and ORS approached the calculation of the revenue requirement in different ways, we find the method proposed by CWS and adopted in Order No.

2018-345(A) to be reasonable and appropriate. This method captures the known and measurable adjustments which arose between the Application being filed and the issuance of the proposed order and which were adopted in the Order. Further, ORS agrees that the revenue allocation employed by CWS and adopted in Order No. 2018-345(A) is appropriate.

III. FINDINGS OF FACT

1) CWS is a water and sewer utility providing water and sewer service in its assigned service area in South Carolina. The Commission is vested with authority to regulate rates of every public utility in this state and to ascertain and fix just and reasonable rates for service. S.C. §58-5-210, et. seq. CWS's operations in South Carolina are subject to the jurisdiction of the Commission.

2) The Commission granted rehearing of its Order No. 2018-345(A) on four specific issues: sludge hauling expenses, litigation costs, Friarsgate EQ basin liner project, and rate design.

3) Aside from the four specified issues on which rehearing was granted, all other issues decided in Order No. 2018-345(A) are not subject to review in this rehearing.

4) The appropriate sludge hauling expense for the test year is \$290,613. This approved expense incorporates ORS's adjustment of (\$96,892) to normalize test year sludge hauling expense.

5) Litigation expenses of \$657,102 associated with the two federal court cases, redacted legal invoices, and unsupported and undocumented legal expenses are denied.

6) Litigation expenses associated with the two ALC cases are to be placed in a regulatory asset, and this regulatory deferral account shall be limited to litigation expenses related to the two ALC proceedings and shall not accrue carrying costs.

7) Litigation expenses associated with the condemnation case are to be placed in a

regulatory asset, and this regulatory deferral account shall be limited to litigation expenses related to the condemnation proceeding and shall not accrue carrying costs.

8) For work related to the EQ Project and associated projects, \$1,079,133 shall remain in plant-in-service, and \$2,242 shall be removed from plant-in-service.

9) The approved rate base following the adjustments adopted herein is \$55,508,763.

10) The approved capital structure, cost of debt rate, and ROE found appropriate in Order No. 2018-345(A) with the adjustments approved herein produce a revenue requirement of \$22,757,009 which is \$116,185 less than the revenue requirement contained in Order No. 2018-345(A).

11) The rate design as contained in Order No. 2018-345(A) is appropriate and shall be continued.

12) The schedule of rates and terms and conditions attached to this Order as Order Exhibit 1 are just and reasonable and designed to achieve the Company's new revenue requirement.

13) As CWS has begun charging the rates and charges approved in Order No. 2018-345(A) and the rates and charges approved herein are slightly lower than those previously approved, CWS is required to refund or credit those customers who paid the rates under the under Order 2018-345(A) that differ from the rates approved in this Order.

IV. CONCLUSIONS OF LAW

Based upon the discussion, findings of fact, and the record of the instant proceeding, the Commission makes the following Conclusions of Law:

1) CWS is a public utility as defined in S.C. Code § 58-5-10(3) and is subject to the

jurisdiction of this Commission.

2) The appropriate test year on which to set rates for CWS is the twelve-month period beginning September 1, 2016 and ending August 31, 2017.

3) Based on the information provided by the parties, the Commission concludes the rate setting methodology to use as a guide in determining the lawfulness of CWS's proposed rates and for fixing just and reasonable rates is return on rate base.

4) For CWS to have the opportunity to earn the 10.5% ROE, found fair and reasonable herein, CWS must be allowed additional revenues of \$2,820,210.

5) The schedule of rates and terms and conditions in the attached Order Exhibit 1 are approved for use by CWS and are just and reasonable without undue discrimination and are also designed to meet the revenue requirements of CWS.

6) CWS shall refund or credit affected customers with the difference collected between the rates approved herein and the rates approved in Order No. 2018-345(A)

V. ORDERING PROVISIONS

IT IS THEREFORE ORDERED THAT:

1) The rates, fees, and charges in Order Exhibit 1 are both fair and reasonable and will allow CWS to continue to provide its customers with adequate water and wastewater services.

2) CWS shall within thirty (30) days of receipt of this Order provide a calculation of the amount of refund due to customers to account for the difference in rates being charged pursuant to Order No. 2018-345(A) and this Order. CWS shall also provide a proposed method of refunding or crediting the customers affected by the difference in the rates.

3) All other requirements of Order No. 2018-345(A) remain in full force and effect.

4) This Order will remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Comer H. Randall, Chairman

ATTEST:

Elliott F. Elam, Jr., Vice Chairman

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff
Schedule of Rates and Charges
Carolina Water Service, Inc.
Docket No. 2017-292-WS
WATER

Service Territory 1**Monthly Charges - Water Supply Customers Only**

Where water is supplied by wells owned and operated by the Utility, the following rates apply:

Residential

Base Facilities Charge per single-family house, condominium, mobile home, or apartment unit:

\$ 14.38 per unit

Residential Commodity Charge:

\$ 5.59 per 1,000 gal.
or 134 cft.

Commercial

Base Facilities Charge
by meter size:

5/8" meter *	\$	14.38 per unit
3/4" meter	\$	14.38 per unit
1" meter	\$	37.43 per unit
1.5" meter	\$	74.86 per unit
2" meter	\$	119.78 per unit
3" meter	\$	224.59 per unit
4" meter	\$	374.42 per unit
8" meter	\$	1,150.51 per unit

Commercial Commodity Charge:

\$ 5.59 per 1,000 gal.
or 134 cft.

Monthly Charges - Water Distribution Customers Only

Where water is purchased from a governmental body or agency or other entity for distribution and resale by the Utility, the following rates apply:

Residential

Base Facilities Charge per single-family house, condominium, mobile home, or apartment unit:

\$ 14.38 per unit

Residential Commodity Charge:

\$ 7.55 per 1,000 gal.
or 134 cft.

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff
Schedule of Rates and Charges
Carolina Water Service, Inc.
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Commercial

Base Facilities Charge

by meter size:

5/8" meter *	\$	14.38 per unit
3/4" meter	\$	14.38 per unit
1" meter	\$	37.43 per unit
1.5" meter	\$	74.86 per unit
2" meter	\$	119.78 per unit
3" meter	\$	224.59 per unit
4" meter	\$	374.42 per unit
8" meter	\$	1,150.51 per unit

Commercial Commodity Charge:	\$	7.55 per 1,000 gal. or 134 cft.
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*A "Fire Line" customer will be billed a monthly base facilities charge of a 5/8" meter or at the rate of any other meter size used as a detector.

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff
Schedule of Rates and Charges
Carolina Water Service, Inc.
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Service Territory 2**Monthly Charges - Water Supply Customers**

Where water is supplied by wells owned and operated by the Utility, the following rates apply:

Residential

Base Facilities Charge per single-family house, condominium, mobile home or apartment unit:

\$ 28.59 per unit

Residential Commodity Charge:

\$ 10.27 per 1,000 gal.
or 134 cft.

Commercial

Base Facilities Charge
by meter size

5/8" meter* \$ 28.59 per unit

1" meter \$ 79.59 per unit

1.5" meter \$ 146.27 per unit

3" meter \$ 499.14 per unit

Commercial Commodity Charge

\$ 10.27 per 1,000 gal.
or 134 cft.

Monthly Charges - Water Distribution Customers Only

Where water is purchased from a governmental body or agency or other entity for distribution and resale by the Utility, the following rates apply:

Residential

Base Facilities Charge per single-family house, condominium, mobile home or apartment unit:

\$ 28.59 per unit

Residential Commodity Charge:

\$ 11.85 per 1,000 gal.
or 134 cft.

Commercial

Base Facilities Charge by meter size:

5/8" meter * \$ 28.59 per unit

1" meter \$ 79.59 per unit

1.5" meter \$ 146.27 per unit

3" meter \$ 499.14 per unit

Commercial Commodity Charge:

\$ 11.85 per 1,000 gal.
or 134 cft.

ORS PROPOSED ORDER EXHIBIT 1

**Office of Regulatory Staff
Schedule of Rates and Charges
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*A “Fire Line” customer will be billed a monthly base facilities charge of a 5/8” meter or at the rate of any other meter size used as a detector.

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff
Schedule of Rates and Charges
Carolina Water Service, Inc.
Docket No. 2017-292-WS
WATER SERVICE
TERMS AND CONDITIONS
AND
NON-RECURRING CHARGES

1. Terms and Conditions

A. Where the Utility is required by regulatory authority with jurisdiction over the Utility to interconnect to the water supply system of a government body or agency or other entity and tap/connection/impact fees are imposed by that entity, such tap/connection/impact fees will also be charged to the Utility's affected customers on a pro rata basis, without markup.

B. Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

C. The Utility will, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units (or in such other circumstances as the law may allow from time to time), which is served by a master water meter or a single water connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

D. When, because of the method of water line installation utilized by the developer or owner, it is impractical to meter each unit separately, service will be provided through a single meter, and consumption of all units will be averaged; a bill will be calculated based on that average and the result multiplied by the number of units served by a single meter.

E. Billing Cycle

Recurring charges will be billed monthly in arrears. Nonrecurring charges will be billed and collected in advance of service being provided.

F. Extension of Utility Service Lines and Mains

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to connect to its water system. However, anyone or entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to any appropriate connection point, and pay the appropriate fees and charges as set forth in this rate schedule, and comply with the guidelines and standards hereof, shall not be denied service unless water supply is unavailable or unless the South Carolina Department of Health and Environmental Control or other government entity has for any reason restricted the Utility from adding additional customers to the serving water system. In no event will the Utility be required to construct additional water supply capacity to serve any customer or entity without an agreement acceptable to the Utility first having been reached for the payment of all costs associated with adding water supply capacity to the affected water system.

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff Schedule of Rates and Charges Carolina Water Service, Inc. *Docket No. 2017-292-WS*

G. Cross-Connection Inspection

Any customer installing, permitting to be installed, or maintain any cross connection between the Utilities water system and any other non-public water system, sewer, or a line from any container of liquids or other substances, must install an approved back-flow prevention device in accordance with 24A S.C. Code Ann. Regs. R.61-58.7.F.2, as may be amended for time to time. Such a customer shall have such cross connection inspected by a licensed certified tester and provide to Utility a copy of written inspection report indicating the back-flow device is functioning properly and testing results submitted by the tester in accordance with 24A S.C. Code Ann. Regs. R.61-58.7.F.2, as may be amended from time to time. Said report and results must be provided by the customer to the Utility no later June 30th of each year for required commercial customers and no later than June 30th of every other year for required residential customers. Should a customer subject to these requirements fail to timely provide such report and results, Utility may arrange for inspection and testing by a licensed certified tester and add the charges incurred by the Utility in that regard to the customer's next bill. If after inspection and testing by the Utility's certified tester, the back-flow device fails to function properly, the customer will be notified and given a 30 day period in which to have the back-flow device repaired or replaced with a subsequent follow-up inspection by a licensed certified tester indicating the back-flow device is functioning properly. Failure to submit a report indicating the back-flow device is functioning properly will result in discontinuation of water service to said customer until such time as a passing inspection report is received by Utility.

H. A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Health and Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities -- 6 S.C. Code Ann. Regs. 61-67 Appendix A, as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee. The Company shall have the right to request and receive water usage records from the water provider to its customers. In addition, the Company shall have the right to conduct an inspection of the customer's premises. If it is determined that actual flows or loadings are greater than the design flows or loadings, then the Company shall recalculate the customer's equivalency rating based on actual flows or loadings and thereafter bill for its services in accordance with such recalculated loadings.

I. The liability of the Company, its agents and employees for damages arising out of interruption of service or the failure to furnish service, whether caused by acts or omission, shall be limited to those remedies provided in the Public Service Commission's rules and regulations governing water utilities.

2. Non-Recurring Charges

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff
Schedule of Rates and Charges
Carolina Water Service, Inc.
Docket No. 2017-292-WS

A. Water Service Connection (New connections only) \$300 per SFE

B. Plant Impact Fee (New connections only) \$400 per SFE

The Plant Capacity Fee reflects the portion of plant capacity which will be used to provide service to the new customers as authorized by Commission Rule R. 103-702.13. The plant capacity fee represents the Utility's investment previously made (or planned to be made) in constructing water production, treatment and/or distribution facilities that are essential to provide adequate water service to the new customer's property.

C. Water Meter Installation - 5/8 inches x 3/4 inches meter \$45.00

All 5/8 inch x 3/4 inch water meters shall meet the Utility's standards and shall be installed by the Utility. A one-time meter fee of \$45 shall be due upon installation for those locations where no 5/8 inch x 3/4 inch meter has been provided by a developer to the Utility.

For the installation of all other meters, the customer shall be billed for the Utility's actual cost of installation. All such meters shall meet the Utility's standards and be installed by the Utility unless the Utility directs otherwise.

D. Customer Account Charge – (New customers only) \$30.00

A one-time fee to defray the costs of initiating service.

E. Reconnection Charges: In addition to any other charges that may be due, in those cases where a customer's service has been disconnected for any reason as set forth in Commission Rule R.103-732.5, a reconnection fee shall be due in the amount of \$40.00 and shall be due prior to the Utility reconnecting service.

F. Tampering Charge: In the event the Utility's equipment, water mains, water lines, meters, curb stops, service lines, valves or other facilities have been damaged or tampered with by a customer, the Utility may charge the customer responsible for the damage the actual cost of repairing the Utility's equipment, not to exceed \$250. The tampering charge shall be paid in full prior to the Utility re-establishing service or continuing the provision of service.

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff
Schedule of Rates and Charges
Carolina Water Service, Inc.
Docket No. 2017-292-WS

SEWER**Service Territory 1 and 2**

(Former customers of Carolina Water Service, Inc., Utilities Services of SC, Inc. and United Utility Companies, Inc.)

Monthly Charges – Sewer Collection & Treatment Only

Where sewage collection and treatment are provided through facilities owned and operated by the Utility, the following rates apply:

Residential - charge per single-family house, condominium, villa, or apartment unit:	\$	65.05 per unit
Mobile Homes:	\$	47.42 per unit
Commercial:	\$	65.05 per SFE*

Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

Monthly charge – Sewer Collection Only

When sewage is collected by the Utility and transferred to a government body or agency, or other entity for treatment, the Utility's rates are as follows:

Residential - charge per single-family house, condominium, villa, or apartment unit:	\$	65.05 per unit
Commercial:	\$	65.05 per SFE*
Wholesale Service (Midlands Utility)	\$	N/A per SFE*
The Village Sewer Collection:	\$	33.80 per SFE*

Commercial customers are those not included in the residential, mobile homes, or Village Sewer Collection categories above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

* Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Health and Environmental Control Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities -- 25 S.C. Code Ann. Regs. 61-67 Appendix A, as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service and tap fee.

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Office of Regulatory Staff
Schedule of Rates and Charges
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SEWER SERVICE
TERMS AND CONDITIONS
AND
NON-RECURRING CHARGES

1. Terms and Conditions

- A. Where the Utility is required under the terms of a 201/208 Plan, or by other regulatory authority with jurisdiction over the Utility, to interconnect to the sewage treatment system of a government body or agency or other entity and tap/connection/impact fees are imposed by that entity, such tap/connection/impact fees will be charged to the Utility's affected customers on a pro rata basis, without markup.
- B. The Utility will, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units (or in such other circumstances as the law may allow from time to time), which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.
- C. Billing Cycle
Recurring charges will be billed monthly in arrears. Non-recurring charges will be billed and collected in advance of service being provided.
- D. Toxic and Pretreatment Effluent Guidelines
The utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR 403.5 and 403.6 are to be processed according to pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.
- E. Extension of Utility Service Lines and Mains
The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into one of its sewer systems. However, anyone or entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to any appropriate connection point, and pay the appropriate fees and charges as set forth in this rate schedule, and comply with the guidelines and standards hereof, shall not be denied service unless sewer capacity is unavailable or unless the South Carolina Department of Health and

ORS PROPOSED ORDER EXHIBIT 1

Office of Regulatory Staff Schedule of Rates and Charges Carolina Water Service, Inc. *Docket No. 2017-292-WS*

Environmental Control or other government entity has for any reason restricted the Utility from adding additional customers to the serving sewer system.

In no event will the Utility be required to construct additional sewer treatment capacity to serve any customer or entity without an agreement acceptable to the Utility first having been reached for the payment of all costs associated with adding wastewater treatment capacity to the affected sewer system.

- F. A Single Family Equivalent (“SFE”) shall be determined by 6 S.C. Code Ann. Regs. 61-67 Appendix A, as may be amended from time to time. Where applicable, such guidelines shall be used for determination of the appropriate monthly service, plant impact fee and tap fee. The Company shall have the right to request and receive water usage records from the water provider to its customers. In addition, the Company shall have the right to conduct an inspection of the customer’s premises. If it is determined that actual flows or loadings are greater than the design flows or loadings, then the Company shall recalculate the customer’s equivalency rating based on actual flows or loadings and thereafter bill for its services in accordance with such recalculated loadings.
- G. The liability of the Company, its agents and employees for damages arising out of interruption of service or the failure to furnish service, whether caused by acts or omission, shall be limited to those remedies provided in the Public Service Commission’s rules and regulations governing wastewater utilities.

2. Solids Interceptor Tanks

For all customers receiving sewage collection service through an approved solids interceptor tank, the following additional charges shall apply:

A. Pumping Charge

At such time as the Utility determines through its inspection that excessive solids have accumulated in the interceptor tank, the Utility will arrange for the pumping tank and will include \$150.00 as a separate item in the next regular billing to the customer.

B. Pump Repair or Replacement Charge

If a separate pump is required to transport the customer’s sewage from solids interceptor tank to the Utility’s sewage collection system, the Utility will arrange to have this pump repaired or replaced as required and will include the cost of such repair or replacement as a separate item in the next regular billing to the customer and may be paid for over a one-year period.

C. Visual Inspection Port

In order for a customer who uses a solids interceptor tank to receive sewage service from the Utility or to continue to receive such service, the customer shall install at the customer’s expense a visual inspection port which will allow for observation of the contents of the solids interceptor tank and extraction of test samples therefrom. Failure to provide such

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visual inspection port after timely notice of not less than thirty (30) days shall be just cause for interruption of service until a visual inspection port has been installed.

3. Non-recurring Charges

- | | |
|--|---------------|
| A. Sewer Service Connection (New connections only) | \$300 per SFE |
| B. Plant Capacity Fee (New connections only) | \$400 per SFE |

The Plant Capacity Fee shall be computed by using South Carolina DHEC "Guide Lines for Unit Contributory Loadings to Wastewater Treatment Facilities" (1972) to determine the single family equivalency rating. The plant capacity fee represents the Utility's investment previously made (or planned to be made) in constructing treatment and/or collection system facilities that are essential to provide adequate treatment and disposal of the wastewater generated by the development of the new property.

The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating of non-residential customer is less than one (1). If the equivalency rating of a non-residential customer is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the sewer system is requested.

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|---------------------|---------|
| C. Notification Fee | \$15.00 |
|---------------------|---------|

A fee of \$15.00 shall be charged to each customer per notice to whom the Utility mails the notice as required by Commission Rule R. 103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating the cost.

- | | |
|---|---------|
| D. Customer Account Charge - (New customers only) | \$30.00 |
|---|---------|

A one-time fee to defray the costs of initiating service. This charge will be waived if the customer is also a water customer.

- E. Reconnection Charges: In addition to any other charges that may be due, in those cases where a customer's service has been disconnected for any reason as set forth in Commission Rule R. 103-532.4 a reconnection fee in the amount of \$500.00 shall be due at the time the customer reconnects service. Where an elder valve has been previously installed, a reconnection fee of \$40.00 shall be charged.
- F. Tampering Charge: In the event the Utility's equipment, sewage pipes, meters, curb stops, service lines, elder valves or other facilities have been damaged or tampered with by a customer, the Utility may charge the customer responsible for the damage the actual cost of repairing the Utility's equipment, not to exceed \$250. The tampering charge shall be

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paid in full prior to the Utility re-establishing service or continuing the provision of service.